



RESEARCH ARTICLE

Legal Analysis of Debt Collector Case Settlement Through Restorative Justice at The Police Level

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ABSTRACT

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Debt collection practices by debt collectors in the consumer finance industry often raise legal issues, particularly when carried out through intimidation, threats, or the seizure of collateral without proper legal procedures. This situation causes the civil legal relationship between the debtor and the financing company to develop into a criminal case requiring law enforcement. In police practice, the resolution of such cases is often directed through restorative justice mechanisms as an alternative to criminal cases, as long as they comply with the provisions stipulated in the Republic of Indonesia National Police Regulation Number 8 of 2021. This study aims to analyze the legal aspects of the application of restorative justice in resolving debt collector cases at the police level and examine the position and responsibility of leasing companies regarding the actions of authorized debt collectors. The research method used is normative juridical with a statutory, conceptual, and case-based approach. The results show that restorative justice can only be applied to debt collector cases that are minor in nature, do not cause serious injuries, and the losses can be recovered through an agreement between the parties. Furthermore, the leasing company remains legally responsible for the actions of debt collectors as its extension, both in civil and criminal aspects. Therefore, the implementation of restorative justice must be carried out proportionally and still ensure legal protection for victims.

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Introduction

Indonesia has a rapidly growing consumer financing (leasing) industry over the past two decades. The growth of the motor vehicle sector and increased ease of access to credit have made leasing a vital instrument for meeting people's transportation needs. However, this development has also had the side effect of increasing cases of debt collection by third parties (debt collectors), often conducted without adherence to legal and ethical norms. Forced vehicle repossession, threats, and intimidation are common complaints from the public, giving rise to complex legal issues requiring law enforcement.

In the legal relationship between leasing companies and debtors, the use of fiduciary guarantees is common practice. The financed object, or motor vehicle, serves as collateral for the debt, based on a fiduciary deed. However, following Constitutional Court Decision No. 18/PUU-XVII/2019, the fiduciary obligation can no longer be executed unilaterally by leasing companies unless the debtor voluntarily surrenders the object. Nevertheless, practice shows that many debt collectors continue to carry out forced repossessions without a valid legal basis.

The vulnerability of debtors as consumers is a frequently raised issue in various legal studies, particularly because many financing companies delegate debt collection powers to third parties without strict oversight. Debt collectors often lack training, certification, or adequate understanding of fiduciary regulations, resulting in their actions exceeding legal boundaries.

The police are the agency most frequently receiving reports of debt collector actions, ranging from vehicle seizures on the street, threats, robbery, and even assault. Many reported cases involve not only criminal acts but also unclear relationships between leasing companies and the collectors acting on their behalf.

In some cases that do not involve violence, the police implement restorative justice (RJ) mechanisms as an alternative to resolving cases. Police Regulation Number 8 of 2021 provides the legal basis for the use of RJ in certain cases that meet the requirements, including the absence of serious injuries, recoverable material losses, and a willingness of both parties to reconcile. The implementation of RJ is considered capable of reducing the burden on law enforcement and providing swift resolution to victims.

One concrete example can be seen in Police Report Number LP/B/1000/VI/2025/SPKT/Polda Sumatera Utara in the name of the reporter Harnomo C. P. (HCP). This case began with a financing relationship with a BPKB pawn scheme for a BMW motor vehicle at PT. Mandiri Ekspres Sejahtera Gadai with a four-month tenor. The reporter had fulfilled the payment obligation on the first installment, but in the subsequent installments experienced economic constraints and had expressed good faith to pay off all financing obligations. However, on June 26-27, 2025, the reporter and his family allegedly experienced intimidation and terror from the debt collector. The climax was, the reporter's vehicle which was in a damaged condition at the repair shop was forcibly taken using a towing truck without the reporter's consent, accompanied by alleged threats and coercion to sign a confiscation letter. As a result of this incident, the complainant suffered material losses estimated at Rp120,000,000.00 and reported the matter to the North Sumatra Regional Police's Criminal Investigation Unit (SPKT) on suspicion of robbery accompanied by threats.

In law enforcement practice, not all debt collector cases are resolved through the criminal justice process and trial. Indonesian National Police Regulation Number 8 of 2021 allows investigators to implement restorative justice mechanisms in resolving certain cases, provided they meet formal and material requirements, such as the absence of serious injuries, recoverable losses, and voluntary consent from the parties. This approach is considered capable of providing a faster resolution and is oriented towards victim recovery. A legal analysis of the legal limitations on the use of RJ at the police level also demonstrates the need for standard procedures to determine when debt collector actions can be classified as minor crimes that can be resolved through amicable settlement, and when they should be processed in court.

Furthermore, there remains uncertainty regarding the legal responsibility of leasing companies for debt collector behavior. What are the legal aspects of resolving debt collector cases through restorative justice at the police level? Or, what is the status and responsibility of leasing companies regarding debt collector actions in restorative justice resolutions? These questions require in-depth study to ensure legal certainty for debtors.

Restorative justice essentially aims to restore the situation to its original state (restoration), prioritizing restitution of losses, and avoiding excessive punishment. However, its implementation must still adhere to the principles of legality, victim protection, and the limits stipulated in laws and regulations. For example, crimes of serious violence or armed robbery are acts that cannot be compromised by restorative justice.

The high number of debt collector cases resolved through police mediation demonstrates a social phenomenon that encourages the public to prefer a quick resolution, while the police seek to reduce the burden of investigation. However, excessive use of restorative justice can reduce the deterrent effect on perpetrators, making it more likely that similar acts will recur.

From a modern criminal law perspective, the restorative justice approach is recognized as an instrument for justice system reform. However, it should be noted that the function of criminal law is not only to restore debt, but also to prevent debt. If the RJ mechanism is not implemented proportionally, the specific and general prevention objectives may be weakened. This is crucial considering that debt collection cases often involve elements of coercion.

Based on the above description, this research is crucial to provide a comprehensive legal analysis of the application of RJ in resolving debt collection cases at the police level, its legal limitations, and the responsibilities of leasing companies as debt collection authorities. This research is expected to provide recommendations for strengthening regulations and legal protection for the public as consumers of financing.

Method

The research method employed in this study is normative juridical research, namely legal research conducted by examining written legal norms, legal principles, doctrines, and court decisions related to the settlement of debt collector cases through restorative justice mechanisms at the police level. This study does not involve field research; instead, it focuses on the analysis of relevant legal materials in order to obtain a comprehensive understanding of the issues under examination.

Research Approaches

This normative juridical research applies several approaches, namely:

a. Statute Approach

This approach is carried out by examining various laws and regulations that are directly related to the object of the study, including the Criminal Code, Law Number 42 of 1999 concerning Fiduciary Security, Constitutional Court Decision Number 18/PUU-XVII/2019, Regulation of the Chief of the Indonesian National Police Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice, as well as regulations issued by the Financial Services Authority governing consumer financing.

b. Conceptual Approach

The conceptual approach is used to understand and analyze legal concepts relevant to this research, such as the concept of restorative justice, corporate criminal liability, legal relationships between leasing companies and debt collectors, and principles of legal protection for debtors in consumer financing. This approach is essential in providing a theoretical foundation for interpreting applicable legal norms.

c. Case Approach

The case approach is conducted by analyzing concrete cases related to debt collector actions handled by the police, both those resolved through restorative justice mechanisms and those processed through the criminal justice system. This approach aims to examine the application of legal norms in practice and to identify the juridical limitations in the use of restorative justice.

Types and Sources of Legal Materials

a. Primary Legal Materials

Primary legal materials consist of laws and court decisions that have binding legal force, including the Criminal Code, the Civil Code, Law Number 42 of 1999 concerning Fiduciary Security, Constitutional Court Decision Number 18/PUU-XVII/2019, Regulation of the Chief of the Indonesian National Police Number 8 of 2021, and Circular Letters of the Chief of Police regarding the implementation of restorative justice.

b. Secondary Legal Materials

Secondary legal materials include legal textbooks, scientific journals, research results, and other scholarly works relevant to the research topic, particularly those discussing restorative

justice, corporate crime, criminal law, and consumer financing. These materials are used to strengthen the analysis and to provide academic perspectives on the issues studied.

c. Tertiary Legal Materials

Tertiary legal materials consist of legal dictionaries, legal encyclopedias, and other supporting sources used to assist in understanding legal terms and concepts related to this research.

Techniques for Collecting Legal Materials

The collection of legal materials is conducted through library research, by tracing laws and regulations, legal books, scientific journals, and other legal sources relevant to the object of the study, both through printed media and electronic media.

Techniques for Analyzing Legal Materials

The analysis of legal materials is carried out qualitatively by describing, interpreting, and correlating applicable legal norms with the legal issues examined. The results of the analysis are then systematically organized to draw conclusions that address the research questions of this study..

Results and Discussion

Juridical Aspects of the Settlement of Debt Collector Cases through Restorative Justice at the Police Level

The settlement of debt collector cases through restorative justice mechanisms at the police level constitutes part of the policy of criminal law reform that prioritizes the restoration of victims' losses and the balance of interests among the parties involved. Within the Indonesian criminal justice system, the application of restorative justice has obtained a legal basis through Regulation of the Chief of the Indonesian National Police Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice, which grants discretionary authority to investigators to resolve certain cases outside the formal criminal justice process. Nevertheless, such authority is limited in nature and must be exercised selectively to avoid conflict with the principle of legality and the protection of victims' legal rights.

Normatively, restorative justice may only be applied when both formal and material requirements are fulfilled, including that the act does not cause public unrest, does not result in serious injury or death, the losses suffered can be restored, and there is voluntary consent from both the victim and the offender to reach a settlement. These requirements are particularly relevant in debt collector cases, given that collection practices are often carried out through methods involving intimidation, threats, or even the forcible seizure of vehicles, which may satisfy the elements of general criminal offenses.

Within the context of fiduciary security law, debt collectors do not possess the authority to forcibly seize the object of fiduciary collateral. Law Number 42 of 1999 concerning Fiduciary Security stipulates that the execution of fiduciary objects may only be carried out through lawful mechanisms, either based on a court decision or through the voluntary surrender of the debtor. This principle has been further reinforced by Constitutional Court Decision Number 18/PUU-XVII/2019, which states that fiduciary execution cannot be conducted unilaterally in the absence of agreement regarding default and the debtor's voluntary consent. Accordingly, the forcible seizure of collateral by debt collectors without a lawful basis constitutes an unlawful act.

When debt collection is carried out through seizure, threats, or coercion, the conduct no longer falls within the realm of civil law but instead enters the domain of criminal law. In such circumstances, police investigators are required to carefully assess whether the case may still be classified as a minor criminal offense suitable for settlement through restorative justice, or whether it must be processed through the formal criminal justice mechanism. This assessment is essential to prevent the misuse of restorative justice as a means to evade criminal accountability.

The case reported under Police Report Number LP/B/1000/VI/2025/SPKT/Polda Sumatera Utara in the name of Harnomo C. P. (HCP) illustrates the complexity of applying restorative justice in debt collector cases. The case originated from a financing relationship involving a motor vehicle registration certificate (BPKB) pawn scheme, which subsequently developed into an alleged criminal act of seizure accompanied by threats. Despite the complainant's demonstrated good faith in fulfilling

the financing obligations, the vehicle was forcibly taken from the workshop where it was being serviced, allegedly accompanied by intimidation and coercion to sign a seizure document.

In the context of this case, the application of restorative justice may only be considered if all requirements stipulated under Regulation of the Chief of Police Number 8 of 2021 are satisfied, particularly the absence of serious physical violence and the victim's genuine willingness to reach a settlement without coercion. However, if it is proven that there were elements of serious threats, forcible seizure, or conduct degrading the dignity of the victim, then juridically the case is not suitable for resolution through restorative justice mechanisms. This position aligns with the view that restorative justice is not intended to eliminate the unlawful nature of a criminal act, but rather to serve as an alternative dispute resolution mechanism oriented toward recovery.

The application of restorative justice in debt collector cases must also consider social impacts and public interests. If practices of forcible seizure are routinely resolved through informal settlements without clear limitations, this may reduce deterrent effects and create opportunities for repeated violations. Therefore, police investigators are required to exercise their authority professionally and responsibly, prioritizing the protection of victims' legal rights in every stage of case resolution.

Based on the foregoing analysis, it can be understood that juridically, the settlement of debt collector cases through restorative justice at the police level can only be justified within certain boundaries. This mechanism must be applied selectively and proportionally and must not conflict with applicable criminal law provisions, particularly in cases involving elements of seizure and threats, as illustrated by cases occurring within the jurisdiction of the North Sumatra Regional Police.

The Position and Liability of Leasing Companies for the Actions of Debt Collectors in Restorative Justice Settlements

The position of leasing companies in consumer financing relationships cannot be separated from the actions of debt collectors acting on their behalf. Although debt collectors are formally positioned as third parties, substantively they perform collection functions based on authority, instructions, or at least acquiescence from the leasing companies. Therefore, any actions undertaken by debt collectors in the course of debt collection must be regarded as forming part of the legal responsibility of the leasing companies themselves.

From the perspective of modern criminal law, particularly under the doctrine of corporate criminal liability, corporations may be held accountable for the acts of individuals who act within the scope of corporate interests and objectives. Acts committed by debt collectors involving intimidation, threats, or forcible seizure of vehicles cannot be detached from the leasing company's interest in obtaining repayment of financing obligations. Consequently, legal responsibility does not rest solely with the field-level actors but also attaches to the leasing companies as parties that directly benefit from such actions.

In the context of settlement through restorative justice, the position of leasing companies becomes even more crucial. Restorative justice is not merely a mechanism for amicable settlement between victims and offenders, but rather a recovery-oriented approach that demands moral, legal, and institutional responsibility from all parties involved. If restorative justice is applied in debt collector cases, leasing companies must be positioned as principal subjects in the recovery process, rather than as passive or peripheral parties.

The case reported by Harnomo C. P. (HCP) to the North Sumatra Regional Police demonstrates that the vehicle seizure was carried out forcibly and accompanied by intimidation and alleged coercion against the victim. Under such conditions, restorative justice cannot simply be used as a shortcut for case resolution. The application of restorative justice can only be justified if the leasing company is willing to acknowledge faults in its collection mechanisms, assume responsibility for the actions of debt collectors, and restore the victim's losses in a tangible and proportional manner.

Regulation of the Chief of the Indonesian National Police Number 8 of 2021 expressly stipulates that restorative justice must be based on the voluntary consent of the parties and must not be used to obscure criminal liability. Therefore, if restorative justice is implemented without involving the leasing company as a responsible party, the mechanism risks perpetuating unlawful

collection practices and causing broader societal harm. In this context, restorative justice must be positioned as a corrective instrument rather than as a means of protecting corporate interests.

Furthermore, the responsibility of leasing companies within restorative justice extends beyond compensation alone and includes obligations to improve internal collection systems and oversight of debt collectors. Without structural reforms and institutional commitment from leasing companies, restorative justice settlements risk becoming merely symbolic and lacking substantive meaning. This view aligns with the objectives of criminal law reform, which emphasize substantive justice and victim protection.

From the perspective of civil law and financing administration, the relationship between leasing companies and debt collectors also generates legal consequences based on principles of agency and supervision. When leasing companies appoint debt collectors to conduct collection activities, they are obligated to ensure that all collection actions comply with applicable laws and regulations, ethical standards of collection, and Constitutional Court rulings concerning fiduciary execution. Failure by leasing companies to adequately supervise debt collectors may constitute an act of omission with legal implications in both civil and criminal domains, particularly when such collection practices cause tangible harm to debtors.

In the context of restorative justice, the active involvement of leasing companies constitutes a substantive requirement to ensure genuine restorative outcomes. Settlements involving only victims and debt collectors risk obscuring the root causes of the conflict, given that debt collectors essentially function as extensions of corporate entities. Therefore, restorative justice should be directed not only toward resolving individual disputes but also toward restoring imbalanced legal relationships between consumers and business actors. Restorative justice loses its meaning if it is used solely to terminate criminal proceedings without accompanying institutional accountability from leasing companies.

Moreover, the application of restorative justice in debt collector cases should serve as an evaluative momentum for leasing companies to comprehensively improve their collection systems. This includes the formulation of clear standard operating procedures, legal training for collection officers, and internal sanction mechanisms against debt collectors who violate the law. In this way, restorative justice does not merely resolve individual cases but also functions as a preventive instrument to ensure that unlawful collection practices do not continue to recur. This approach aligns with the objectives of modern criminal law, which emphasize not only punishment but also prevention and protection of societal rights.

Accordingly, it can be affirmed that the position and liability of leasing companies for the actions of debt collectors in restorative justice settlements are inseparable. Restorative justice may only be applied lawfully and fairly when leasing companies actively assume responsibility for debt collectors' actions, restore victims' losses, and ensure compliance with the law in consumer financing practices in Indonesia

Conclusions and Recommendations

Based on the discussion, it can be concluded that resolving cases involving debt collectors through restorative justice mechanisms at the police level can only be implemented in a limited and selective manner. Restorative justice is part of the criminal law reform policy aimed at redressing victims' losses and balancing the interests of all parties. However, its application must not ignore the unlawful nature of the acts committed. In debt collector cases involving elements of robbery and threats, as illustrated in the case at the North Sumatra Regional Police, restorative justice cannot be used to eliminate criminal liability if the elements of the crime have been met.

Furthermore, the position and responsibility of leasing companies regarding debt collector actions in restorative justice resolution are inseparable. Although debt collectors are positioned as third parties, their collection actions are part of the leasing company's interests and responsibilities as the principal. Therefore, in implementing restorative justice, leasing companies must be actively involved as the subject responsible for redressing victims' losses, acknowledging their mistakes, and improving collection mechanisms to ensure they do not conflict with the law. Restorative justice can only be realized fairly if it is applied proportionally, is not misused to protect corporate interests, and

continues to place legal protection for victims as the main orientation in the Indonesian criminal justice system.

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